

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

U.S. BANK NATIONAL ASSOCIATION,
Plaintiff,
v.
JANETH M. ROMERO,
Defendant.

Case No. [20-cv-00404-JD](#)

**ORDER ADOPTING REPORT AND
RECOMMENDATION, AND
REMANDING CASE**

Re: Dkt. No. 5

This is an unlawful detainer action filed by plaintiff U.S. National Bank Association against defendant Janeth Romero. Romero, representing herself, removed the case from state court. Dkt. No. 1. Magistrate Judge Laurel Beeler filed a report and recommendation concluding that Romero has “not established federal-question or diversity jurisdiction, and remand to state court thus is appropriate.” Dkt. No. 5.

Romero filed an objection on the ground that “this matter brings forth a federal question as to whether a statute, that prohibits Defendant from bringing cross claims to protect her property interest, is constitutional.” Dkt. No. 6 at 3. But as Magistrate Judge Beeler determined, “the ‘well-pleaded complaint’ rule requires a federal question to be presented on the face of the plaintiff’s complaint at the time of removal for federal-question jurisdiction to exist. A federal question raised only in response to a complaint does not establish federal-question jurisdiction.” Dkt. No. 5 at 3 (citing *Metro. Life Ins. Co. v. Taylor*, 481 U.S. 58, 63 (1987); *Duncan v. Stuetzle*, 76 F.3d 1480, 1485 (9th Cir. 1996)).


For a case to be within the federal question removal statute, “a right or immunity created by the Constitution or laws of the United States must be an element, and an essential one, of the plaintiff’s cause of action. . . . A genuine and present controversy, . . . must exist with reference thereto . . . , and the controversy must be disclosed upon the face of the complaint, unaided by the

1 answer or by the petition for removal.” *Gully v. First Nat. Bank*, 299 U.S. 109, 112-13 (1936).
2 These well-established principles support the conclusion that defendant Romero’s objection to the
3 report and recommendation cannot be sustained.

4 Defendant Romero’s objection is consequently overruled, and the Court adopts Magistrate
5 Judge Beeler’s well-reasoned report and recommendation. For the reasons articulated in that
6 report and recommendation as well as in this order, this case is ordered remanded to the Superior
7 Court of California for the County of Alameda.

8 **IT IS SO ORDERED.**

9 Dated: May 11, 2020

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14 JAMES DONATO
15 United States District Judge
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